

REQUEST FOR PROPOSALS SPECIFICATION NO. 07-108

The City of Lincoln intends to enter into a contract for and invites you to submit a sealed proposal for:

TRANSIT ADVERTISING SERVICES FOR STARTRAN

MEETING OR EXCEEDING THE CITY OF LINCOLN'S SPECIFICATIONS

Sealed proposals will be received by the City of Lincoln, Nebraska on or before 12:00 noon **Friday, March 30, 2007** in the office of the Purchasing Agent, Suite 200, K Street Complex, Southwest corner, located at 440 South 8th Street, Lincoln, Nebraska 68508. Proposals will be publicly opened reading only the name of the firms submitting proposals in the Bid Room located on the First Floor. **A pre-bid meeting will be held Thursday, March 22, 2007 at 10:00am.** Pre-bid will be at Startran headquarters, 710 J Street, Lincoln, NE. Bidders are strongly encouraged to attend.

Firms should take caution if U.S. mail or mail delivery services are used for the submission of proposals. Mailing should be made in sufficient time for proposals to arrive in the Purchasing Division, prior to the time and date specified above. Proposals may be downloaded from the City's website at www.lincoln.ne.gov Keyword: Bid. Prospective submitters must monitor the bid/proposal listing for any addendums. Late proposals will not be considered. Fax or e-mail proposals are not acceptable. Proposal response must be in a sealed envelope.

REQUEST FOR PROPOSALS
Specification No. 07-108

TRANSIT ADVERTISING SERVICES for StarTran

1. SCOPE OF SERVICES

- 1.1 The City proposes to grant to a responsible and qualified proposer the right and privilege to place approved advertising material of the type hereinafter indicated on the inside and outside of StarTran coaches, at such locations as approved by the Transit Manager.
- 1.2 The successful proposer shall have the exclusive right and responsibility for soliciting contracts for transit advertising on StarTran equipment and for placing and maintaining materials, servicing all transit advertising contracts, collecting of all accounts receivable, and generally do and perform all other services and activities required to maintain a reasonable and satisfactory amount of paid advertising on StarTran equipment at all times.
- 1.3 StarTran reserves the right to arrange up to \$10,000 per contract year in trading media time/space for bus advertising.
- 1.4 All advertising materials, slips, fastening devices and exterior frames, if appropriate, shall be provided by contractor.
- 1.5 At all times, the contractor shall be an independent contractor and not an employee or agent of the City of Lincoln.
- 1.6 The City shall have the right to use any unsold space for its own purposes or for use by other governmental entities or nonprofit organizations for the placement of public service messages.
- 1.7 The term of the contract awarded to the successful proposer shall be for a period of **three (3) years, with three optional one-year renewal periods.**
- 1.8 The successful proposer shall carry insurance in the kinds and amounts identified in Attachment "A".
- 1.9 The successful proposer shall agree to indemnify and hold harmless the City from any and all legal action that may arise from placement and removal of advertising material on StarTran equipment.
- 1.10 The successful proposer, at the time a contract is issued, will be required to provide the City with a minimum \$5,000 payment bond to cover work on StarTran buses.
- 1.11 The bidder must furnish proof of its experience to perform the terms of this proposal.
 - 1.11.1 The statement should include a description of experience with similar transit advertising projects, include a list of current transit systems, contact names and phone numbers.
 - 1.11.2 Bidder must have been in the transit advertising business for the last five (5) consecutive years.
 - 1.11.3 Bidder must also demonstrate that it has provided advertising services to systems having an equivalent fleet size at least equal to sixty (60) buses.
- 1.12 Bidder shall include a listing of personnel and qualifications for each key position.
 - 1.12.1 A market manager must be designated and identified.
 - 1.12.2 A detailed resume must be submitted for all personnel of the company.
- 1.13 Bidders are expected to fully familiarize themselves with the types and amounts of advertising space available on all pertinent vehicles and with all other details in connection with this Solicitation and with their proposal.
- 1.14 **A pre-bid meeting will be held on Thursday, March 22, 2007 at the Startran Bus Station, 710 J Street at 10:00am.**
 - 1.14.1 All vendors are strongly encouraged to attend.
 - 1.14.2 There will be no other opportunity to inspect buses throughout the bid process.

2. ADVERTISING INFORMATION

- 2.1 StarTran serves the City of Lincoln, Nebraska with a current population of approximately 225,000.
- 2.2 Advertising space is available in the following sizes and quantities:
 - 2.2.1 Beginning at the award of the contract, StarTran will have 69 active buses for the purpose of interior and exterior advertising, including 60 full-size buses and 9 Handi-

- Vans.
- 2.2.2 Interior space is available for 1000+ 11" X 28" ads on 60 full-size buses.
- 2.2.3 The vehicle roster is listed below:
 - 2.2.3.1 Full-size Coaches:
 - 102" x 35' 1997 Gillig - 15
 - 102" x 35' 2001 Gillig - 20
 - 102" x 35' 2004 Gillig - 10
 - 102" x 35' 2006 Gillig - 15
 - 2.2.3.2 Handi-Vans:
 - 2003 Ford Glaval - 9
- 2.2.4 Available advertisement space locations and sizes are as follows:
 - 2.2.4.1 Full-size Coaches:
 - Street: 30" x 144", vinyl
 - Curb: 30" x 108" vinyl
 - 30" x 88", vinyl
 - Tail: 21" x 70", vinyl
 - Head: 21" x 38", vinyl
 - 2.2.4.2 Handi-Vans:
 - Street: vinyl
 - Curb: vinyl
 - Tail: vinyl, 21" x 38"
 - Head: vinyl
- 2.2.5 Proposer is responsible for clarifying any questions as to available buses and advertising space.
- 2.2.6 Vinyl signs may be used in lieu of framed advertising signs in appropriate areas.
- 2.2.7 Fifteen (15) full-size active buses and up to 9 Handi-Vans are available for a totally painted bus program.
- 2.2.8 Notwithstanding the expectation that the above-referenced number of buses shall be available, the City reserves the right to at any time reduce or increase the size of its fleet or the type of buses provided for any reason.
- 2.2.9 In any event, the successful proposer shall be granted the exclusive right to sell all available advertising space including space on new or different dimensioned buses as the same from time to time may be acquired by the City of Lincoln.
- 2.3 The following types of advertising shall not be accepted by the Contractor for placement on either the interior or exterior of StarTran buses:
 - 2.3.1 Any advertising prohibited by federal, state, or local law.
 - 2.3.2 Feminine hygiene products or contraceptives of any kind or nature.
 - 2.3.3 Advertisements of a sexually explicit nature or advertisements which advertise shows, movies, pictures, books, or other materials, exhibitions, or performances of a sexually explicit nature.
 - 2.3.4 Advertising copy that is false, misleading, deceptive, and/or offensive to the moral standards of the community, or contrary to good taste.
 - 2.3.5 Advertising copy which is contrary to the best interest of the transit system or which may result in public criticism of the transit system or transit advertising.
 - 2.3.6 Advertising which could reasonably be deemed to be slanderous or libelous, or advertising which is directed at a particular individual, group or organization, or advertising of a politically controversial nature.
 - 2.3.7 Advertising of or relating to beer, wine, or alcoholic liquors or to any tobacco products.
 - 2.3.8 Advertising by or on behalf of any candidate for political office, or relating to any ballot issue, or relating to any other issue of a political nature whereby the advertiser attempts to influence public opinion.
 - 2.3.9 Advertising which appears as if StarTran or the City of Lincoln endorses or approves in any way of the advertising itself or of any subject of such advertisements.
 - 2.3.10 Or as the sitting City Council may prohibit.
- 2.4 All copy, artwork and advertising shall be approved by the Transit Manager in advance of

placement on buses, and artwork and material shall be of acceptable quality.

2.4.1 All advertising copy will contain the following notice: "Paid advertisement".

2.5 All interior and exterior advertising shall be maintained in neat and proper condition.

3. COMPENSATION

3.1 Currently all monies made payable by virtue of any advertising contract authorized by the current agreement are payable to the City of Lincoln/StarTran.

3.2 Although the contractor does not receive payments from the advertisers, the contractor does act as the billing agent, transmitting statements to the advertisers.

3.3 The contractor is responsible to follow-up, and expedite collection of past-due billings.

3.4 StarTran, within 30 days of the end of each calendar month, pays the contractor the agreed-upon percent of gross receipts received each month, with a statement showing gross receipts received.

3.5 This compensation procedure is subject to potential negotiation; however, any procedure which enables direct payment by advertisers to the contractor will require the contractor to provide a surety bond and have approval of the city.

3.6 Although existing advertising cannot be "resold" under the new proposal, for ease of comparison, the proposal should assume all advertising space is available for sale. The resulting contract will exclude revenue from existing advertising contracts. Note: Revenue from existing contracts will not be payable to the new Contractor under this proposal.

3.6.1 Existing advertising contracts are as follows:

651 painted coach Exp 12/31/07

652 painted coach Exp 12/31/07

653 painted coach Exp 05/31/07

654 painted coach Exp 03/31/09

4. SUBMITTAL REQUIREMENTS

4.1 All inquiries regarding this proposal shall be directed via e-mail or faxed written request to Bob Walla, Assistant Purchasing Agent (rwalla@lincoln.ne.gov) Or Fax: (402)441-6513.

4.1.1 These inquiries and/or responses shall be distributed to prospective proposers as an addenda.

4.1.2 The City of Lincoln shall only reply to written inquiries received within seven (7) calendar days of bid opening.

4.2 All proposers shall specify on the enclosed proposal form the percentage of gross proceeds proposed to be paid to the City, without deduction of any nature, under its proposal.

4.2.1 Proposer shall also specify on the enclosed proposal form minimum guaranteed annual payments for each year of the contract, it being expected by the City that such minimum guaranteed payments shall be progressively higher each contract year.

4.2.2 Proposer is to be responsible for paying the City the minimum guaranteed annual payment or percentage of gross proceeds, whichever is greater.

4.2.3 Lower guarantees/percentages for a reasonable start-up period after contract initiation is negotiable and is to be addressed in the proposal.

4.2.4 Contract termination reimbursement is to be included and addressed in the proposal, to a maximum of 25% of the gross receipts of the advertising contracts in effect at the end of the contractual agreement through the end of the advertising contracts, to a maximum of one year.

4.2.5 Guarantees/percentages to be negotiated each additional extension.

4.3 List of current clients, including location, area, population, and number of buses being operated; past experiences and existing contracts in transit advertising.

4.4 Documentation of revenues to clients versus minimum goals/guarantees/percentages for all current and previous contracts for past three years.

4.5 Years established and former company names in the last 10 years.

4.6 Type of services particularly qualified to perform.

4.7 Names of principals and states in which they are registered.

4.8 Number of staff usually and currently employed.

4.9 Outside consultants and associates usually and currently employed.

4.10 Certification that the proposer is not included on the U.S. Comptroller General's list of ineligible

- contractors.
- 4.11 Statement of willingness to provide the required quarterly reports and willingness to open relevant books for audit upon any request by the Transit Manager or the Finance Director of the City of Lincoln.
 - 4.12 A statement regarding the standard of material quality that will be established for installation and maintenance of advertising displays.
 - 4.13 A discussion of the techniques to be utilized by the proposer to attract transit advertising and increase compensation to StarTran and an indication of the willingness of the proposer to aggressively and imaginatively sell advertising on StarTran equipment.
 - 4.14 A statement of the present or proposed affiliation with any national sales organization.
 - 4.15 Proposers shall designate a representative to be in charge of the local operation. A resume of the person's background and experience shall be provided, along with the sales staff, both local and national, which the proposer would intend to employ.

5. SELECTION CRITERIA

- 5.1 Criteria for selection will include, but not be limited to, the following:
 - 5.1.1 Annual minimum guarantees and StarTran percent revenue.
 - 5.1.2 Past work experience.
 - 5.1.3 Specialized experience of firm and personnel considering the type and complexity of the service.
 - 5.1.4 Demonstrated ability to meet minimum guarantees/percentages to clients.
 - 5.1.5 References and documentation of firm's history and stability.
 - 5.1.6 Firm's ability to meet all requirements under scope of work.
 - 5.1.7 Content and presentation of written materials.
 - 5.1.8 Any other specialized qualifications which the firm might possess to benefit the transit advertising program.
- 5.2 While revenue to be received by the City under any proposal is an important factor, all proposers shall recognize that numerous factors and not only financial terms will be evaluated before awarding the contract.
- 5.3 The City desires a firm with noncompeting media contracts/sales in the Lincoln NE area.
- 5.4 The City reserves the right to select the proposal that, after due consideration, it deems to be in the best interest of the City to accept, and the City further reserves the right to reject any and all proposals.

COMPANY NAME _____

PROPOSAL
SPECIFICATION NO. 07-108
BID OPENING TIME: 12:00 NOON
DATE: Friday, March 30, 2007

The undersigned, having full knowledge of the requirements of the City of Lincoln for the below listed phases and the contract documents (which include Notice, Instructions, this Proposal, Specifications, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to enter into a contract with the City the below listed fees for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for fees listed below.

ADDENDA RECEIPT: The receipt of addenda to the specification numbers ____ through ____ are hereby acknowledged. Failure of any submitter to receive any addendum or interpretation of the specifications shall not relieve the submitter from any obligations specified in the request. All addenda shall become part of the final contract document.

BIDDING SCHEDULE

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>PAYMENT</u>
1.	PERCENTAGE OF GROSS PROCEEDS TO BE PAID TO THE CITY OF LINCOLN	_____ %
2.	MINIMUM GUARANTEED ANNUAL PAYMENTS:	
	1ST YEAR	\$ _____
	2ND YEAR	\$ _____
	3RD YEAR	\$ _____

NO BID SECURITY REQUIRED
A \$5,000.00 PERFORMANCE BOND IS REQUIRED FROM SUCCESSFUL PROPOSER

The undersigned signatory for the firm represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

RETURN 6 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF ENVELOPE AS FOLLOWS:
SEALED RFP FOR SPEC. 07-108

COMPANY NAME

BY (Signature)

STREET ADDRESS or P.O. BOX

(Print Name)

CITY, STATE ZIP CODE

(Title)

TELEPHONE No. FAX No.

(Date)

E-MAIL ADDRESS

ESTIMATED DELIVERY DAYS

Bids may be inspected in the Purchasing Division during normal business hours after tabulation and review by a Purchasing Agent. Bid tabulations can be viewed on our website at: lincoln.ne.gov Keyword: **Bid** The Intent to Award will be listed on the website when a recommendation is received from the Department.

INSURANCE REQUIREMENTS FOR ALL CITY CONTRACTS

1. GENERAL PROVISIONS

- A. **Indemnification.** The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.
- B. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to Protect Contractor and City against all liabilities and hazards as provided in this article throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- C. **Occurrence Basis Coverage.** All insurance shall be provided on an **occurrence basis** and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- D. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- E. **Certificates Showing Coverage.** All certificates of insurance shall be filed with the City Attorney, and may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show the City of Lincoln as additional insured, including by specific endorsement where necessary, as indicated in the following requirements. Such certificate shall specifically state that the related insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction in the stated amounts or limits of insurance coverage.
- F. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

2. INSURANCE REQUIREMENTS

- A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of Contract such insurance in the forms and minimum amounts as specified in this Article and as will protect Contractor and City from the following claims arising out of or resulting from or in connection

with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

- B. Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees.

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

C. Commercial General Liability Insurance.

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the City Attorney.

Coverage	Min Amt	Notes
General	\$2,000,000	Aggregate
Products and Completed Operations	\$2,000,000	Aggregate
Personal and Advertising Injury	\$1,000,000	
Each Occurrence	\$1,000,000	
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

(3) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer).

(4) City may at its sole option, and in lieu of being additional insured on the Contractor's policy, by written requirement in the Special Provisions or by written change order, require Contractor to provide a separate Owner's Protective liability policy. The premium cost to obtain such insurance shall be as paid as provided in the Special Provision or change order, with any related cost savings as reasonably determined by the City being reimbursed or paid to the City.

D. Vehicle liability insurance coverage.

- The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles with specific endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. Railroad Protective Liability. If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with

minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

- F. **Umbrella or Excess Insurance.** The Contractor shall provide Umbrella or Excess insurance coverage with minimum coverage limits of \$3,000,000 each occurrence and aggregate.
- G. **City included as Insured on Contractor's Policy – Endorsements required.**
The Contractor shall provide adequate written documentation, including applicable ACORD certificates, declarations pages or other acceptable policy information demonstrating that the City is included as an additional insured along with the Contractor with respect to all of the coverages required in this "Section 2A Insurance Requirements," except for applicable Worker's Compensation coverage, to include all work performed for the City and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The documentation or endorsement shall specifically include the city as an additional insured for purposes of Products and Completed Operations. The inclusion of the City as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for the City, whether on an excess, contributory or other basis regardless of any other insurance coverage available to the City.

3. **CONTRACTOR'S INDEMNITY – CONTRACTUAL LIABILITY INSURANCE**

- A. To the same extent as specified for minimum coverage requirements in Section 2 above, the required insurance shall include contractual liability coverage to include indemnification and hold harmless agreements and provisions in the related Contract Documents, specifically including the following provision:
- (1) To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City, its officers, agents, employees, volunteers and consultants from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs arising out of or related to the Contract or the Contractor's activities, errors, or omissions related to the Contract including liabilities or penalties imposed by applicable, law, rule or regulation in connection therewith; provided that such claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs:
 - is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use therefrom, and
 - is caused in whole or in part by any act or omission of the Contractor, any subcontractor, agent, officer, employee, or assigns of the same or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.
 - (2) Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.
- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against the City, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

- C. The obligations of indemnification herein shall not include or extend to:
- (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to the City and related to the Contract; and
 - (2) Any claims arising out of the negligence of the City to the extent the same is the sole and proximate cause of the injury or damage so claimed.
- D. In the event of any litigation of any such claims shall be commenced against the City, Contractor shall defend the same at Contractor's sole expense upon notice thereof from the City. Contractor shall notify the insuring company that the City reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of the City without the express written consent of the City.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against the City.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

- A. The Contractor shall promptly notify the City in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to the City shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event the City receives a claim or otherwise has actual knowledge of an any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, the City shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however the City shall have no duty to inspect the project to obtain such knowledge, and provided further that the City's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until the City completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of the City, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for City's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by the City.

INSTRUCTIONS TO PROPOSERS

CITY OF LINCOLN, NEBRASKA

PURCHASING DIVISION

1. PROPOSAL PROCEDURE

- 1.1 Each RFP must be legibly printed in ink or typed, include full name, business address, telephone number, fax number and email address of the Proposer; and be signed in ink by the Proposer.
- 1.2 Response by a firm/organization other than a corporation must include the name and address of each member.
- 1.3 A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.4 Any person signing a response for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Proposals received after the time and date established for receiving offers will be rejected.

2. EQUAL OPPORTUNITY

- 2.1 Each proposer agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, proposer shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, disability, national origin, age, or marital status.

3. DATA PRIVACY

- 3.1 Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 3.2 The proposer agrees to hold the City harmless from any claims resulting from the proposer's unlawful disclosure or use of private or confidential information.

4. PROPOSER'S REPRESENTATION

- 4.1 Each proposer by signing and submitting an offer, represents that he/she has read and understands the specification documents, and the offer has been made in accordance therewith.
- 4.2 Each offer for services further represents that the proposer is familiar with the local conditions under which the work and has correlated the observations with the requirements of the RFP.

5. SPECIFICATION CLARIFICATION

- 5.1 Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of specification documents.

- 5.2 Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to date and time for response receipt, unless otherwise noted in RFP.
- 5.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 5.4 Oral interpretations/changes to Specification Documents made in any other manner, will not be binding on the City; proposers shall not rely upon oral interpretations.

6. ADDENDA

- 6.1 Addenda are written documents issued by the City prior to the date for receipt of offers which modify or interpret the specification document by addition, deletion, clarification or correction.
- 6.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 6.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 6.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.
- 6.5 Proposers shall ascertain prior to submitting their offer that they have received all addenda issued, and they shall acknowledge receipt of addenda in their proposal.

7. ANTI-LOBBYING PROVISION

- 7.1 During the period between the proposal advertisement date and the contract award, proposers, including their agents and representatives, shall not lobby or promote their proposal with any member of the City Council or City Staff.

8. EVALUATION AND AWARD

- 8.1 The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 8.2 No offer shall be withdrawn for a period of ninety (90) calendar days after the time and date established for receiving offers, and each proposer agrees in submitting an offer.
- 8.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 8.4 The RFP process is designed to be a competitive negotiation platform, where price is not required to be the sole determinative factor; also the City has the flexibility to negotiate with a select firm or selected firms to arrive at a mutually agreeable relationship.
- 8.5 A committee will be assigned the task of reviewing the proposals received.

8.5.1 The committee may request documentation from Proposer(s) of any information provided in their proposal response, or require the Proposer to clarify or expand qualification statements.

8.5.2 The committee may also require a site visit and/or verbal interview with a Proposer or select group of Proposers to clarify and expand upon the proposal response.

8.6 The offer will be awarded to the lowest responsive, responsible proposer whose proposal will be most advantageous to the City, and as the City deem will best serve their requirements.

8.7 The City reserves the right to accept or reject any or all offers, parts of offers; request new proposals, waive irregularities and technicalities in offers; or to award the RFP on a split-order basis, or lump-sum basis; such as shall best serve the requirements and interests of the City.

9. INDEMNIFICATION

9.1 The proposer shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the proposer, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the proposer to indemnify or hold harmless the City of Lincoln for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

9.2 In any and all claims against the City or any of its members, officers or employees by an employee of the proposer, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 9.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

10. LAWS

10.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

10.2 Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

11. AWARD

11.1 The RFP process is designed to be a competitive negotiation platform, where price is not required to be the sole determinative factor; also the City has the flexibility to negotiate with a selected firm or firms to arrive at a mutually agreeable relationship.

11.2 The City shall be the sole judge as to merits of the proposal, and the City's decision will be final.

11.3 A committee will be assigned by the Mayor with the task of reviewing the proposals received.

11.3.1 The committee may request documentation from

Proposer(s) of any information provided in their proposal response, or require the proposer to clarify or expand qualification statements.

11.3.2 A short list of firms from proposals submitted may be selected for a presentation to the committee and ranked by committee members.

11.4 Final approval to enter into contract negotiations with the top ranked firm will be by the Mayor of the City of Lincoln.

11.5 The City shall not be liable for any expense incurred in connection with preparation of a response to this RFP.

11.6 The contract document shall incorporate by reference all requirements, terms and conditions of the solicitation, proposal received and all negotiated details.

12. LIVING WAGE

12.1 The bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per Section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.